

REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner for considering the material cited in the Supplemental Information Disclosure Statement filed in the present application on June 15, 2009 by the return of the signed copy of the Form PTO-1449 attached to the Final Official Action. As indicated in the above-cited Supplemental Information Disclosure Statement, the material listed on the Form PTO-1449 was cited in a Chinese Office Action dated March 13, 2009, a copy of which was also provided in the Supplemental Information Disclosure Statement. The actual Chinese language Office Action itself, however, was not listed on the Form PTO-1449, since the actual Chinese language Office Action dated March 13, 2009 is not considered to be prior art with regard to the present patent application.

With regard to the Information Disclosure Statement filed February 8, 2006, it is noted that the Examiner again asserted that this Information Disclosure Statement fails to fully comply with 37 C.F.R. § 1.98(a)(2), since a copy of the listed non-patent literature “Encryption and Authentication Specification”, Version 1, (March 3, 2004), Internet Streaming Media Alliance, was not provided. As previously stated in Applicants’ previous Amendment Under 37 C.F.R. § 1.111 filed September 10, 2009, the Examiner’s attention was drawn to the Information Disclosure Statement filed February 8, 2006, wherein Applicants indicated that a copy of the cited document was not being provided since this document was not readily available to Applicants, and that Applicants presumed that a copy of this document was being provided to the U.S. Receiving Office by the International Searching Authority (ISA). Thus, Applicants respectfully requested that the Examiner verify whether or not the ISA has provided the cited document, and provide an indication thereof in the next Official communication.

In the Final Official Action, it is noted that the Examiner has indicated that the ISA did not provide a copy of the above-cited document, and that the Examiner was unsuccessful in attempting to acquire a copy of the document from the ISMA. As a result, Applicants have also attempted to locate a copy of this document. However, it appears that the above-cited document was never officially published, and is not available on the ISMA website. Thus, Applicants have also been unable to locate a copy of this document.

With regard to another matter, Applicants note that on February 22, 2010, Applicants filed a Supplemental Information Disclosure Statement in the present application, which was after the January 14, 2010 notification date of the Final Official Action. Applicants respectfully request that the Examiner consider the materials cited in the Supplemental Information Disclosure Statement filed February 22, 2010, and provide an indication thereof in the next Official communication.

In the Final Official Action, the Examiner asserts that the disclosure of the Applicants' Japanese priority Application No. 2003-131372 fails to provide adequate support for one or more claims in the present application. Additionally, claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admitted Prior Art (AAPA) in view of SHAMOON et al. (U.S. Patent No. 7,233,948 B1) and HERPEL et al. ("MPEG-4 Systems: Elementary Stream Management"). Claims 1 and 3 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over ISMA ("ISMA- Releases Content Protection Specification for Peer Review") in view of RAMBHIA (U.S. Patent Application Publication No. 2002/0156712 A1) and HERPEL.

Upon entry of the present amendment, each of the currently pending independent claims 1 and 3 has been amended. Claims 1-9 are currently pending for consideration by the Examiner.

Pursuant to M.P.E.P. § 714.13, Applicants contend that entry of the present amendment is appropriate because the proposed amended claims avoid the rejections set forth in the Final Official Action, resulting in the present application being placed in condition for allowance, or alternatively, the revised claims place the application in better condition for purposes of appeal to the Board of Patent Appeals and Interferences. Furthermore, the amendment does not present any additional claims. Accordingly, entry of the present amendment is respectfully requested.

The Final Official again asserts that the disclosure of Applicants' Japanese priority Application No. 2003-131372 fails to provide adequate support for one or more claims in the present application. More particularly, the Final Official Action asserts that Applicants' Japanese Application No. 2003-131372 does not describe that the ISMA media stream has an ISMA header.

Contrary to this assertion, Applicants respectfully submit that the use of the expression "ISMA header" is merely describing what is already disclosed in Applicants' Japanese Application No. 2003-131372 A. Applicants respectfully submit that this basic concept is similarly described throughout Applicants' priority document, wherein this information is embedded in the beginning of the ISMA media stream to signal that the subsequent stream is protected, and by which tool it is protected. See, for instance, translated Sections 3.4 and 3.5 of the priority document. Applicants submit that the use of the expression "ISMA header" is merely a convenient English language way of describing what is already disclosed in Applicants' Japanese Application No. 2003-131372 A. Thus, Applicants also submit that Applicants' priority document does provide the necessary support and enablement for Applicants' claimed subject matter in a manner consistent with 35 U.S.C. § 112, first paragraph.

Consistent with the arguments provided above and to provide further evidence to support Applicants' arguments provided above, the Examiner's attention is particularly drawn to the translated English language Abstract of the corresponding International Application WO 2004/100442 A1. Applicants respectfully submit that while the English language translation previously discussed may not have translated the Japanese language priority document using the exact term "ISMA header", that the translated English language Abstract of the corresponding International Application does explicitly use the term "ISMA header". (See Abstract in WO 2004/100442 A1.) Thus, Applicants submit that this further evidence establishes that the ISMA media stream has an ISMA header. Accordingly, Applicants respectfully submit that the Examiner officially acknowledge Applicants' proper claim for foreign priority in the next Official communication.

In the Final Official Action, claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admitted Prior Art (AAPA) in view of SHAMOON and HERPEL. Applicants respectfully traverse this rejection.

With regard to independent claims 1 and 3, the Final Official Action asserts that Applicants' "Background Art" section of the specification generally discloses an ISMA media stream subjected to MPEG-4 IPMP extension, wherein the transmitted ISMA media stream includes an ISMA header and contents as a payload. The Final Official Action acknowledges that the "Background Art" section does not disclose the IPMP tool list descriptor portions of claims 1 and 3. However, the Final Official Action asserts that SHAMOON discloses these features.

Contrary to this assertion, Applicants submit that the Final Official has only provided a general reference to the cited sections of SHAMOON, without specifically identifying exactly

how the cited sections of SHAMOON correspond to the specific features of independent claims 1 and 3. More specifically with respect to independent claim 1, Applicants submit that SHAMOON does not disclose that *the IPMP tool list descriptor, representing as a tool required for processing of the contents, at least one tool selected from a group including an IPMP tool, an ISMA Cryp decryption tool, and a key management system (KMS) tool, is buried in the ISMA media stream*, as explicitly recited in independent claim 1. Additionally, Applicants submit that SHAMOON also fails to disclose the similar features recited in independent claim 3. Thus, Applicants respectfully submit that, for at least this reason, the Final Official Action has failed to establish a *prima facie* case of obviousness for independent claims 1 and 3.

Additionally, it is noted that the Final Official Action also acknowledges that AAPA and SHAMOON do not disclose the three “wherein” clauses of claims 1 and 3 describing the ISMA media stream having a plurality of payloads, an IPMP tool list descriptor, and a plurality of IPMP descriptors. However, the Final Official Action asserts that HERPEL discloses these features. In reviewing the rejection, it is evident that the Final Official Action has once again only provided a general reference to the cited sections of HERPEL, without specifically identifying exactly how HERPEL is being applied to the specific features of claims 1 and 3. A review of HERPEL, however, reveals that HERPEL does not disclose the IPMP tool list descriptor portions as explicitly recited in the “wherein” portions of claims 1 and 3.

Thus, Applicants respectfully submit that, for at least the reasons provided above, the specific combination of features recited in independent claims 1 and 3 would not have been obvious to one of ordinary skill in the art at the time to the invention, in view of AAPA, SHAMOON, and HERPEL.

Nevertheless, in order to expedite the prosecution of the present application to allowance, Applicants have amended independent claims 1 and 3 to explicitly recite that the IPMP tool may be specified in a plurality of ways, including by using a fixed bit length IPMP tool ID, by using a list of IPMP tool IDs representing equivalent alternative tools, and by specifying standards that must be satisfied by the IPMP tool (emphasis added). Applicants submit that support for this proposed amendment is at least provided in Applicants' specification pages 10-11.

Applicants respectfully submit that neither AAPA, SHAMOON, HERPEL, nor the combination thereof, disclose or render obvious, the specific combination of features recited in amended independent claims 1 and 3, including the features cited above. Additionally, Applicants submit that claims 2 and 7-9, which depend from amended independent claim 1, and claims 4-6, which depend from amended independent claim 3, are also patentable for at least the reasons discussed above regarding independent claims 1 and 3, and further for the additional features recited therein. Accordingly, Applicants respectfully request that the rejection of claims 1-9 under 35 U.S.C. § 103(a) as being unpatentable over Applicants' Admitted Prior Art (AAPA) in view of SHAMOON and HERPEL be withdrawn.

In the Final Official Action, independent claims 1 and 3 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over ISMA in view of RAMBHIA and HERPEL. Applicants respectfully traverse this rejection, for reasons similar to the reasons discussed above.

With regard to claims 1 and 3, the Final Official Action asserts that ISMA article discloses a device that transmits an ISMA media stream subjected to an MPEP-4 IPMP extension, having an ISMA header and including contents as a payload. It is noted that the Final Official Action acknowledges that ISMA fails to disclose the IPMP tool list descriptor portions of claims 1 and 3. However, the Final Official Action asserts that RAMBHIA discloses these

features, generally citing various paragraphs of RAMBHIA. It is further noted that the Final Official Action also acknowledges that the combination of ISMA and RAMBHIA do not disclose the three “wherein” clauses of claims 1 and 3 describing the ISMA media stream having a plurality of payloads, an IPMP tool list descriptor, and a plurality of IPMP descriptors. However, the Final Official Action asserts that HERPEL discloses these features.

Contrary to the general assertions in the Final Official Action, Applicants respectfully submit that, for reasons similar to the reasons discussed above regarding the previously-discussed rejection, the Final Official Action has failed to establish a *prima facie* case of obviousness since the Final Official Action has not identified with a reasonable degree of specificity exactly where and how the applied references disclose the various features recited in independent claims 1 and 3.

Nevertheless, Applicants submit that neither ISMA, RAMBHIA, HERPEL, nor the combination thereof, disclose or render obvious the specific combination of features recited in amended independent claims 1 and 3. Accordingly, Applicants respectfully request that the rejection of independent claims 1 and 3 under 35 U.S.C. § 103(a) as being unpatentable over ISMA in view of RAMBHIA and HERPEL also be withdrawn.

For at least the reasons provided above, Applicants respectfully submit that the specific combination of features recited in amended independent claims 1 and 3 would not have been obvious to one of ordinary skill in the art at the time of the invention, in view of the cited prior art references. Accordingly, Applicants respectfully request that the claim rejections under 35 U.S.C. § 103(a) be withdrawn, and that an indication of the allowability of claims 1-9 be provided in the next Official communication.


SUMMARY

From the amendments, arguments, and remarks provided above, Applicants submit that all of the pending claims in the present application are patentable over the references cited by the Examiner, either alone or in combination. Accordingly, reconsideration of the outstanding Final Official Action is respectfully requested, and an indication of allowance of claims 1-9 is now believed to be appropriate.

Applicants note that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims. Further, no acquiescence as to the propriety of the Examiner's rejections is made by the present amendment. All other amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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